

**ASSEMBLY BILL**

**No. 157**

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**Introduced by Assembly Member Anderson**

January 26, 2009

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An act to amend Section 69 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 157, as introduced, Anderson. Property taxation: transfer of base year value: disaster relief.

Existing property tax law provides, pursuant to a requirement of the California Constitution, that the property tax base year value of real property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to a comparable property located within the same county that is acquired or newly constructed within 5 years after the disaster as a replacement property.

This bill would, for disasters occurring on or after July 1, 2007, expand this transfer authorization to allow a comparable replacement property to be acquired or newly constructed within 7 years, rather than 5 years, after a disaster.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 69 of the Revenue and Taxation Code is  
2     amended to read:

69. (a) Notwithstanding any other provision of law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county which is acquired or newly constructed within ~~five~~ *seven* years after the disaster, or five years in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value; however, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base year value of the replacement property acquired shall be determined in accordance with this section.

The assessor shall use the following procedure in determining the appropriate replacement base year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property

1 substantially damaged or destroyed, then that lower value shall  
2 become the replacement property's base year value.

3 (4) The full cash value of the property substantially damaged  
4 or destroyed shall be the amount of its full cash value immediately  
5 prior to its substantial damage or destruction, as determined by  
6 the county assessor of the county in which the property is located.

7 (c) For purposes of this section:

8 (1) Property is substantially damaged or destroyed if it sustains  
9 physical damage amounting to more than 50 percent of its full  
10 cash value immediately prior to the disaster. Damage includes a  
11 diminution in the value of property as a result of restricted access  
12 to the property where the restricted access was caused by the  
13 disaster and is permanent in nature.

14 (2) Replacement property is comparable to the property  
15 substantially damaged or destroyed if it is similar in size, utility,  
16 and function to the property which it replaces.

17 (A) Property is similar in function if the replacement property  
18 is subject to similar governmental restrictions, such as zoning.

19 (B) Both the size and utility of property are interrelated and  
20 associated with value. Property is similar in size and utility only  
21 to the extent that the replacement property is, or is intended to be,  
22 used in the same manner as the property substantially damaged or  
23 destroyed and its full cash value does not exceed 120 percent of  
24 the full cash value of the property substantially damaged or  
25 destroyed.

26 (i) A replacement property or any portion thereof used or  
27 intended to be used for a purpose substantially different than the  
28 use made of the property substantially damaged or destroyed shall  
29 to the extent of the dissimilar use be considered not similar in  
30 utility.

31 (ii) A replacement property or portion thereof that satisfies the  
32 use requirement but has a full cash value that exceeds 120 percent  
33 of the full cash value of the property substantially damaged or  
34 destroyed shall be considered, to the extent of the excess, not  
35 similar in utility and size.

36 (C) To the extent that replacement property, or any portion  
37 thereof, is not similar in function, size, and utility, the property,  
38 or portion thereof, shall be considered to have undergone a change  
39 in ownership when the replacement property is acquired or newly  
40 constructed.

1 (3) “Disaster” means a major misfortune or calamity in an area  
2 subsequently proclaimed by the Governor to be in a state of disaster  
3 as a result of the misfortune or calamity.

4 (d) (1) This section applies to any comparable replacement  
5 property acquired or newly constructed on or after July 1, 1985.

6 (2) The amendments made by Chapter 1053 of the Statutes of  
7 1993 apply to any comparable replacement property that is acquired  
8 or newly constructed as a replacement for property substantially  
9 damaged or destroyed by a disaster occurring on or after October  
10 20, 1991, and to the determination of base year values for the  
11 1991–92 fiscal year and fiscal years thereafter.

12 (3) ~~The amendments made by the act adding this paragraph~~  
13 *Chapter 317 of the Statutes of 2006* apply to any comparable  
14 replacement property that is acquired or newly constructed as a  
15 replacement for property substantially damaged or destroyed by  
16 a disaster occurring on or after July 1, 2003, and to the  
17 determination of base year values for the 2003–04 fiscal year and  
18 fiscal years thereafter.

19 (4) *The amendments made by the act adding this paragraph*  
20 *apply to any comparable replacement property that is acquired*  
21 *or newly constructed as a replacement for property substantially*  
22 *damaged or destroyed by a disaster occurring on or after July 1,*  
23 *2007, and to the determination of base year values for the 2007–08*  
24 *fiscal year and fiscal years thereafter.*

25 (e) Only the owner or owners of the property substantially  
26 damaged or destroyed, whether one or more individuals,  
27 partnerships, corporations, other legal entities, or a combination  
28 thereof, shall receive property tax relief under this section. Relief  
29 under this section shall be granted to an owner or owners of  
30 substantially damaged or destroyed property obtaining title to  
31 replacement property. The acquisition of an ownership interest in  
32 a legal entity which, directly or indirectly, owns real property is  
33 not an acquisition of comparable property.

34 SEC. 2. This act provides for a tax levy within the meaning of  
35 Article IV of the Constitution and shall go into immediate effect.